

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

DATE: November 10, 1966

PLACE: Board Chambers, Wailuku, Maui, Hawaii

TIME: 7:30 P. M.

PRESIDING: Douglas Sodetani, Chairman

MEMBERS PRESENT: Douglas Sodetani, Chairman
Emil Balthazar
Edward L. Cluney
William F. Crockett, Vice-Chairman
Shiro Hokama
Nadao Honda
George Kondo
Paul Pladera
Keith Tester
James Ushijima
Charles C. Young, Research Assistant

MEMBERS EXCUSED: Harry Kobayashi

OTHERS PRESENT: Kase Higa, County Attorney
Robert Johnson, Advertiser Reporter
Richard Mawson
John Walker

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ROLL CALL:

There were 10 members present and 1 excused at the regular meeting of the Maui County Charter Commission on November 10, 1966.

MINUTES:

The minutes of the previous meeting held on October 20 was distributed to the members, and approval of said minutes was deferred until the next meeting. On motion of Keith Tester, seconded by Shiro Hokama, the minutes of October 6 and 13 were accepted as circulated.

COMMUNICATIONS:

Copies of the following letters received by the Commission were circulated to the members:

1. Letter dated November 2, 1966, from Jean R. Lane, Chief of Police.

2. Letter dated October 13, 1966, from Hiromu Suzawa, Deputy Corporation Counsel, City and County of Honolulu, together with the proposed Code of Ethics submitted by the Citizens' Committee on Ethics and the Ordinance enacted by the City Council.

Also circulated to the members was the Committee Report of the Commission members who went to Kauai to explore and review the Proposed Charter of the County of Kauai. The Proposed Charter, the alternatives proposed by the Board of Supervisors of the County of Kauai, and the specimen of the ballot were also circulated together with said Committee Report.

Mr. Crockett also circulated an article by Jesse Unruh entitled "The Need for an Ombudsman in California." He explained that said article was circulated because it is about the best explanation that is brief to the point and tells about the board of appeals that the commission will be having a discussion on.

Chairman Sodemani thanked Mr. Crockett for his contribution.

There being no old business to be discussed, Chairman Sodemani proceeded with new business--Article VIII, Chapter 5, Planning Department.

PLANNING DEPARTMENT:

Mr. Sodemani: May I be allowed to express my feeling?

I feel that this department is such an important organization within our frame of municipality government that it should be that the commission, which is appointed by the mayor with the approval of the council, appoint the planning director, who will have a minimum of five years of training and experience, three of which shall be in a responsible position. Then the director serves at the pleasure of the commission. I feel the economic coordinator should be placed under the mayor's office. It is a very important function within our county right now, and it should not be under the planning department. There will be a conflict of different interests. Often times, the economic coordinator will take different standpoint from the planning director and there might be clashes.

Mr. Crockett: You raised five or different issues in respect to planning. First, before discussing what we want, identify the different problems we have with respect to the department. Maybe we should have the secretary write on the blackboard the different problems. Then, discuss the problems one by one. (The problems were identified on the blackboard by Chairman Sodemani).

Mr. Tester: How many commissioners do we have now?

Mr. Sodemani: Seven and three ex-officio members.

Mr. Crockett: I have some questions--whether we should have those ex officio members on that particular commission?

Mr. Higa: Well, I think they are placed there because the county and district engineer are naturally concerned with roads and are supposed to be experts on road construction. They are non-voting members. Same with police.

Mr. Crockett: Can't they be called in from time to time when questions come up?

Mr. Sodehani: Actually, as far as ex officio members are concerned, it's either they or their deputies. I agree that most of them attend meetings faithfully, but whether they are making contributions or not, I don't know.

Mr. Tester: What's your objection in incorporating it, Bill?

Mr. Crockett: First place, I think we're getting a planning commission overloaded with people--with government people. The second problem is it takes a lot of their time.

Mr. Tester: Perhaps it should be incumbent of the chairman to invite such members of these departments to the meetings when necessary.

Mr. Sodehani: It doesn't make too much difference whether ex officio members are present or not present.

Mr. Crockett: Incidentally, they have a traffic commission now. There would be no point in having the the chief of police on the planning commission.

Mr. Higa: Actually, I don't see any particular reason for having the chief of police on the planning commission.

Mr. Sodehani: Do you want to leave it to seven?

Mr. Cluney: Didn't the planning department go on record wanting to reduce it?

Mr. Sodehani: The planning commission didn't, but the director wanted.

Mr. Balthazar: Do you have any feeling on the planning commission?

Mr. Sodehani: Personally speaking, the less you have to work with, it's better. Seven would be the maximum.

Mr. Tester: Do you have any representation from Molokai and Lanai?

Mr. Sodehani: None at the present.

Mr. Sodetani: This is what I feel in this respect. When planning director is appointed by the mayor, the mayor is concerned primarily for the next two or four years to be re-elected. A zoning request comes in or a variance request comes in--he calls up the planning director, and ask him to take care of his friend.

Mr. Crockett: If politics is going to be played in planning, politics is going to be played by the mayor. How do we know how much politics will be played on planning itself?

Mr. Sodetani: To put that much on five or seven members--that much more difficult in trying to put that much more pressure.

Mr. Tester: If you only have an advisory board, I don't think that is very true.

Mr. Sodetani: These people don't run for office.

Mr. Crockett: I have yet to see somebody resign from the planning commission. You said the mayor may have a friend and do favors for the friend. These people on the planning commission will have friends and business associates and have real interest in a lot of them. How do we know these people on the planning commission can be influenced because of their outside communication to do good for their friends.

Mr. Sodetani: The only way they can be checked is from the standpoint of the director whether that is sound planning or not. If the director is in collusion, these results don't come out until 10 or 15 years later.

Mr. Tester: I think the commission should not be advisory--regular operating commission.

Mr. Balthazar: You recommended planning commission appoint planning director, civil service appoint personnel director and police commission appoint chief of police.

Mr. Sodetani: These are the three agencies I am very much concerned because it can sort of get out of hand.

Mr. Crockett: How are we going to divide the responsibilities between the planning director and commission?

Mr. Balthazar: Maybe we should adopt the Hawaii plan?

Mr. Crockett: It seems to me from what you said--why you want to keep the planning commission, there is a pretty strong argument for keeping this board of appeals.

Mr. Higa: The way we are operating right now, the planning commission is in a way a board of appeals because the applicant for whatever it is, the director may make recommendation whether to deny or approve a change

in zoning. But the applicant can present whatever arguments he has to the planning commission, but if the planning commission turns the applicant down, the applicant can still appeal to the Board of Supervisors.

Mr. Crockett: In Honolulu, the board of appeals, as I understand, does not request for change in zoning, but request for variance.

Mr. Higa: Well, even variances can get appeal to the Board of Supervisors.

Mr. Crockett: Maybe if we want this out of politics, why don't we do it completely.

Mr. Tester: In the Hawaii Charter it specifically says that an appeal shall be sustained only if the board finds that the director's action was based on an erroneous finding of a material fact or that the director had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

Mr. Crockett: Basically, the Hawaii zoning board of appeals is like the Honolulu one, except the language of the Hawaii Charter is better.

Mr. Balthazar: In trying to separate the legislative powers from the administrative powers, I think we should be pretty consistent with all commissions and separate those powers. If it is good for planning commission, it's good for the liquor commission.

Mr. Higa: One of the things you people should consider in looking at our present system is, is it working? You will notice the Model County Charter has this kind of system, but from what I can see here on Maui, we have less trouble than all the other counties. This is true. Give it a little thought. We have been fortunate in having sort of a continuity of a program. I am not saying planning commission makes perfect decisions all the time. There were times when the planning commission overrid the planning director.

Mr. Crockett: Whether we should separate regulatory functions from adjudicatory functions is different. Hawaii Charter, Honolulu Charter and Model County Charter--they have it.

Mr. Sodehani: Then you feel the function of the board of appeals to adjudicate should be final. Like what Hawaii has.

Mr. Crockett: Like Hawaii, like Honolulu, like the Model County Charter.

Mr. Balthazar: The balancing factor is all of the initial planning, initial regulation made by boards and commissions would be subject to approval; that it should be final. It should be final, otherwise you would have this merely going around to get political relief than justifiable relief.

Mr. Crockett: If we want to take it out of politics, let's take it out of politics.

Mr. Tester: If your commission is appointed by the mayor, approved by the council, you will get a balance.

Mr. Sodehani: The area of board of appeals.

Mr. Tester: I believe it should have a board of appeals.

Mr. Balthazar: My recommendation stands.

Mr. Sodehani: Who should appoint the planning director?

Mr. Tester: I believe the mayor should appoint with the council's confirmation.

Mr. Balthazar: That is also my recommendation.

Mr. Sodehani: Any other opinion? My feeling is that the commission should appoint the director and the director serves at the pleasure of the commission. If he does a good job, then they keep him. Same with chief of police and civil service director.

Mr. Balthazar: It's a little different from liquor commission and police commission. They don't make any kind of a long term program. Their prime function is to set up the master plan. How do you feel about my recommendation?

Mr. Higa: I am inclined to go along with Douglas' point of view. You will have more of a continuity if it's a two year term--if you are going to have the planning director every two years.

Mr. Pladera: But if it's four years?

Mr. Higa: He is civil service. He really doesn't have to play politics.

Mr. Balthazar: Why don't we poll? (A poll was taken).

Mr. Sodehani: We have the agreement that the director shall be appointed by the commission--operating rather than advisory. Now--qualification.

Mr. Balthazar: Go to the Hilo Charter.

Mr. Tester: I think the organization should be re-worded.

Mr. Sodehani: The planning department consisting of planning director and planning commission. The planning director shall be appointed by the commission and may be removed by the commission. He shall have had five years of training in a field of planning, three of which shall be in a responsible planning position.

Mr. Tester: Do you think it might be necessary that he shall be a graduate in either engineering or architect planning?

Mr. Ushijima: Administrative capacity.

Mr. Crockett: If you use that language, would it be possible for the deputy to take over?

Mr. Higa: I would think so.

Mr. Sodehani: Planning Commission--should it be five members instead of seven?

Mr. Crockett: Give more people chance. This is a growing community. About the point Jimmy made when we first started--I think we should not have these commissioners subject to reappointment to the same commission.

Mr. Sodehani: I feel that a member of a commission should not succeed himself more than once. The longest one person serves is eight years.

Mr. Crockett: I think if we are going to take the commission out of politics, I think you got to get as much people to serve on the commission to get public participation. I think by limiting the term he serves, we are going to achieve that result.

Mr. Cluney: After they serve one term, how about inserting a provision to the effect that they shall not be appointed more than five terms?

Mr. Sodehani: Every commission or board member shall serve only one term and cannot be reappointed to the same office two years after.

Mr. Hokama: Who wants to be the one year guy?

Mr. Crockett: Maybe we can make some provision for these people initially appointed.

Mr. Hokama: The first year and second year man can be reappointed.

Mr. Sodehani: Maximum of six years.

Mr. Hokama: How many years are you going to have for term of office? Hawaii has four years.

Mr. Crockett: I think all commissions should have same terms.

Mr. Sodehani: Make it five years.

Mr. Hokama: So you'll make exception only for first year man?

Mr. Sodehani: The one or two year man can succeed himself once. That is all. All boards and commissions will be appointed by the mayor with the approval of the council. Length of boards and commissions--five years?

Mr. Hokama: Why not make them one for one, one for two, two for three, two for four and one for five?

Mr. Sodehani: Duties of the commission.

Mr. Tester: I would like to leave number one out.

Mr. Crockett: If this is not going to be an advisory commission, what words shall we use?

Mr. Sodehani: What's your pleasure in regard to Keith Tester's recommendation? Delete number one? (Numbers 2 to 7 of the Hawaii Charter were accepted by the members without changes).

Mr. Sodehani: Board of Adjustment and Appeals.

Mr. Crockett: I would like to suggest that we consider taking the language used in the Model County Charter. There's a couple of reasons--they don't have arbitrary and capricious language.

Mr. Sodehani: Where do they go to appeal?

Mr. Higa: They appeal to the planning commission first and then to the Board of Supervisors.

Mr. Sodehani: What's your pleasure as far as Bill's recommendation? No objection? We shall follow the Model County Charter.

Mr. Sodehani: Economic Development Coordinator. I feel the coordinator should be under the chairman.

Mr. Balthazar: The Hawaii Charter has specific responsibilities combined to the functions. Ours doesn't say what it does or not. I recommend that we adopt the Hawaii's plan.

Mr. Sodehani: What's the pleasure of the people separating it from the planning department? (It was agreed by the members to have a separate department for the economic development coordinator).

Mr. Sodehani: Police Department. The only changes is that the police commission shall be appointed by the mayor with the approval of the council for staggered terms of five years.

Mr. Crockett: On the powers, duties and functions--spell it out a little more in detail. I think we should make it very clear in the charter--that the policies of the police department comes from the police commission and not the police chief.

Mr. Sodehani: How many commissioners should we have?

Mr. Crockett: Make it so that every segment of the community would be represented.

Mr. Higa: Why don't we increase it to seven for the purpose of including Lanai and Molokai.

Mr. Kondo: I would go along if Lanai and Molokai is going to be represented.

Mr. Higa: Why don't we say it's the intent.

Mr. Sodehani: Any other action on department of police?

Mr. Cluney: I think the secretary should come from the commission itself. One should serve as secretary and not the police officer.

Mr. Higa: If you do it for one commission, you have to do it for other commissions.

There being no further business to be discussed, the meeting was adjourned at 10:12 P.M.

Respectfully submitted,

Ayako Ishikawa
Ayako Ishikawa
Secretary

Mr. Ushijima

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

November 10, 1966

A G E N D A

1. Roll Call
2. Minutes of prior meetings
3. Communication
 - a. Letter dated November 2, 1966, from
Chief of Police Jean R. Lane.
(Reply of Charter Commission attached)
4. Literature:
 - a. Revised Article XIV, Charter Amendment;
 - b. Proposed Code of Ethics submitted by Citizens'
Committee on Ethics and copy of Ordinance enacted
by City Council establishing Ethics Commission.
(Copy of letter from Hiromu Suzawa attached)
 - c. Report of Committee exploring and reviewing the
Proposed Charter of Kauai County Charter.
5. Old Business
6. New Business
 - a. Chapter 5, Planning Department
 - b. Chapter 6, Department of Civil Service
 - c. Chapter 7, Board of Water Supply
 - d. Chapter 8, Police Department
 - e. Chapter 9, Liquor Commission
 - f. Chapter 11, Urban Redevelopment and Urban
Renewal Agencies
 - g. Chapter 12, Civil Defense Agency
 - h. Chapter 13, Board of Appeals